

**Introduced by Senator Correa**February 18, 2011

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An act to add Section 98.73 to the Labor Code, relating to employment.

## LEGISLATIVE COUNSEL'S DIGEST

SB 883, as introduced, Correa. Employers: good faith defense.

The Department of Labor Standards Enforcement is generally charged with enforcing employment statutes and regulations, either in administrative actions or through litigation. An employer may face administrative sanctions, civil fines and penalties, and criminal penalties for violations of employment statutes or regulations.

This bill would permit an employer to raise as an affirmative defense that, at the time of an alleged violation, the employer was acting in good faith and in compliance with or reliance upon an applicable employment statute or regulation.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 98.73 is added to the Labor Code, to
- 2 read:
- 3 98.73. (a) An employer shall not be liable or subject to
- 4 punishment for any violation of this code or wage order of the
- 5 Industrial Welfare Commission if the employer pleads and proves
- 6 to the trier of fact that, at the time the alleged act or omission
- 7 occurred, the employer was acting in good faith and in conformity
- 8 with, and in reliance on, an applicable administrative regulation,

1 order, ruling, approval, or interpretation of the Labor Commissioner  
2 or, where California law follows federal law, the Administrator of  
3 the Wage and Hour Division of the United States Department of  
4 Labor, or an administrative practice or enforcement policy of such  
5 agency with respect to the class of employers to which the  
6 employer belonged. This defense shall apply even if, after the  
7 alleged act or omission occurred, the administrative regulation,  
8 order, ruling, approval, interpretation, practice, or enforcement  
9 policy upon which the employer relied is modified, rescinded, or  
10 is determined by judicial authority to be invalid or of no legal  
11 effect.

12 (b) This section applies to all actions and proceedings that have  
13 not resulted in a final judgment regardless of whether the action  
14 or proceeding was commenced, or based upon an alleged act or  
15 omission that occurred, before, on, or after January 1, 2012.